REMARKS

Claims 1-30 are pending. By this amendment, claims 1, 3, 10, 11, 16, 19, and 24 are amended. No new matter is introduced. Reconsideration and issuance of a Notice of Allowance are respectfully requested in view of the preceding amendments and following remarks.

Claim Rejections Under 35 U.S.C. § 112

Claims 1-30 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for reasons stated on page 2 of the Office Action. Specifically, the Office Action alleges that the language in claim 10 "receiving a quantity of assets" may be interpreted as "receiving the computer components physically." Applicant has amended claim 10 to recite "receiving data about a quantity of assets." The Office Action alleges that the meaning of the phrase "forming a sum of assets" in claim 10 is not clear. Applicant has amended claim 10 to recite "summing the quantity of assets of the at least one asset class for all of the plurality of iCOD computers on the network, thereby obtaining a sum of assets for the at least one asset class." Independent claims 1, 16 and 24, which have similar limitations as in claim 10, have also been amended accordingly.

The Office Action further alleges that the language about decrypting/encrypting the quantity of the assets or measurement in claims 11, 19 and 26 are vague. Claims 11, 19 and 26 have been amended to clarify the claimed invention.

Taken together, Applicant respectfully submits that the grounds for the rejection under 35 U.S.C. § 112, second paragraph, have been obviated. Withdrawal of the rejection is respectfully requested.

Claim Rejection Under 35 U.S.C. § 103

Claims 1-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over applicant admitted prior art (AAPA) in view of Article 1999 for reasons stated on pages 3-7 of the Office Action. Applicant respectfully traverses the reaction.

To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *In re Vaeck,* 947 F.2d 488 (Fed. Cir. 1991) and *MPEP* § 2142. In order to combine references, the following tenets of patent law must be adhered to: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) The references must be viewed without the

benefit of impermissible hindsight vision afforded by the claimed invention; and (D) Reasonable expectation of success is the standard with which obviousness is determined. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5 (Fed. Cir. 1986).

Independent claims 1, 10, 16 and 24 are directed to a system (claim 1) and methods (claims 10, 16 and 24) for measuring at least one monitored asset belonging to at least one asset class over a network with **a plurality of iCOD computers.**

The AAPA relates to a method for measuring an asset on **a single iCOD computer.** The Application specifically notes:

> "The current iCOD pricing system also **treats each iCOD system individually for purposes of auditing the CPU totals.** An iCOD customer with four iCOD computers thus has four individual and separate iCOD contracts or accounts. Using the current iCOD system, the iCOD customer who has more active CPUs than necessary on one iCOD computer but insufficient CPUs on a second iCOD computer cannot shift the "excess" CPUs from the first iCOD computer to the second iCOD computer." (page 2, lines 5-10, emphasis added)

Therefore, the AAPA fails to teach or suggest a system or method for measuring at least one monitored asset belonging to at least one asset class over a network with **a plurality of iCOD computers.** Specifically, the AAPA fails to teach or suggest "an auditing system operably connected to the plurality of iCOD computers using the network connection, the auditing system comprising: a memory that stores data about monitored assets for each asset class for each iCOD computer, and a notification process that provides a notification when the total amount of inactive assets in at least one asset class for all of the plurality of iCOD computers changes," as recited in claim 1.

The AAPA fails to teach or suggest the steps of "receiving data about a quantity of assets of the at least one asset class for each of the plurality of iCOD computers on the network; summing the quantity of assets of the at least one asset class for all of the plurality of computers on the network...," as recited in claim 10.

The AAPA also fails to teach or suggest the steps of "measuring a quantity of assets of at least one asset class from each of the plurality of iCOD computers on the network; transmitting data about the quantity of assets for at least one asset class for each of the plurality of iCOD computers to an asset database; and receiving a notification if a total quantity of assets for the at least one asset class for all of the iCOD computers on the network differs from a previously specified total quantity of assets of the at least one asset class for all

of the iCOD computers on the network, wherein the assets may be either active or inactive," and the steps of "grouping the plurality of iCOD computers into at least one cluster, wherein the at least one cluster includes at least one iCOD computer; receiving data about the quantity of assets by asset class from each iCOD computer in the network of iCOD computers; summing, for each cluster, the quantity of assets by asset class for each cluster, thereby obtaining a total quantity of assets for each asset class for each cluster," as recited in claims 16 and 24, respectively.
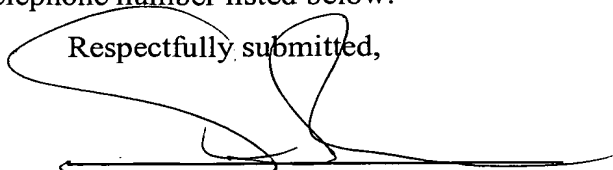
Article 1999 does not cure the deficiency of AAPA. Article 1999 describes future "on-demand" infrastructure solutions for iCOD products. Article 1999 describes that customers choosing the iCOD option will receive **a server** with up to the full complement of processors but only pay for the processors they plan to use (paragraph 4). Article 1999, however, does not teach or suggest a system or method for measuring at least one monitored asset belonging to at least one asset class over a network with **a plurality of iCOD computers.**

Accordingly, Applicant respectfully submits that AAPA and Article 1999, individually or in combination, do not render claims 1, 10, 16 and 24 obvious. Applicant further submits that claims 2-9, 11-15, 17-23, and 25-30 are allowable at least because they depend from one of claims 1, 10, 16 and 24 and for the additional features they recite. Withdrawal of the rejections under 35 U.S.C. § 103(a) is respectfully requested.

In view of the above remarks, Applicant respectfully submits that the application is in condition for allowance. Prompt examination and allowance are respectfully requested.

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Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

Date: **September 26, 2006**

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WAS:122943.1